MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2015 / 2016

ULK2612 – LAW OF BANKING

(All Sections / Groups)

3 JUNE 2016

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. - 12.30 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copies of:
   i. Bills of Exchange Act 1949 of Malaysia,
   ii. Financial Services Act 2013
   iii. Anti Money Laundering and Anti- Terrorism Financing Act 2001
   iv. Contracts Act 1950
5. Please write all your answers in the Answer Booklet provided. Please **highlight** or **underline** all references to cases and statutes

QUESTION 1

On 6 September 2014, Pemaju Sdn. Bhd. (PSB) obtained overdraft facilities from Development Bank Bhd. (DBB) for RM1 million. This was guaranteed by X, Y and Z the directors of PSB. Later X, the Managing Director of PSB, unknown to Y and Z, negotiated further credit facilities up to RM1.5 million on the overdraft. Upon the company being unable to settle the credit facilities granted, DBB sued PSB and the guarantors and obtained judgment in default against them. X, Y and Z wish to set aside the judgement in default against them as guarantors.

(a) Advise X, Y and Z on their rights and liabilities as guarantors.

(15 marks)

(b) What if the terms of the guarantee stated "the guarantors guarantee payment on demand all money whether certain or contingent now or hereafter owing in any manner whatsoever".

(10 marks)

(Total: 25 marks)

QUESTION 2

On 20 March 2016, Harry and his business partner Potter opened a joint current account at Friendly Bank Bhd. (FBB) with the mandate, "Either /or to sign and operate the account". Their joint account had a credit balance of RM 15,000 to enable them to pay creditors.

(a) What measures should FBB have taken before opening the joint account?

(5 marks)

(b) On 25 March 2016 Harry called FBB to enquire about the credit balance in their joint account. Can FBB entertain his request?

(5 marks)

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(c) Unknown to Potter, between 25 March and 5 April 2016, Harry withdrew a total of RM 10,000.00 in cash from their joint account and disappeared. Meanwhile on 30 March 2016, Potter issued a cheque for RM 3,000 and on 6 April 2016 another cheque for RM 5,000 as payment to Trade Creditors. The cheque for RM5,000 was dishonoured marked 'Refer to Drawer'. They demand cash payment and inform him that his credit facilities are revoked.

Advise Potter and FBB on their respective rights and liabilities.

(7 marks)

(d) Meanwhile, Trade Creditors have obtained a judgment for the sum of RM 5,000 against Potter and serve a garnishee order on FBB.

Advise FBB on their legal duties with respect to the garnishee order.

(8 marks)

(Total: 25 marks)

QUESTION 3

Cinderella a customer of Fantasy Bank Bhd. (FBB) obtained a business loan in the sum of RM500,000. In consideration for the loan Cinderella charged her house and land (the said property) to FBB. RM10,000 was to be released by FBB on the 30th. of each month to her creditor Prince, upon proof of delivery invoices signed by her. Prince had delivered two consignments as contracted and received payment. However, when Cinderella took delivery of the third consignment, she was unhappy with the quality and rejected the consignment. She called FBB and specifically instructed FBB not to release payment under her loan. However, contrary to specific instructions FBB released the third payment to Prince. Consequently, Cinderella refused to service her loan repayments. FBB now demands repayment of the loan monies released together with interest thereon failing which FBB will exercise its rights to sell off the said property.

Advise Cinderella whether she is obliged to repay FBB.

(Total: 25 marks)

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QUESTION 4

Rajin an officer at Careful Bank Bhd, (CBB) alerted her superior officer that Murid a 22 year old foreign student, wanted to deposit RM50,000 into her savings account which usually had balances averaging RM1,000. When asked about the source of her funds, Murid explained that she works as a part time model and has just received payment from a very prestigious modelling contract and that she would be receiving further sums regularly for the next two years. She further instructs CBB that the money is to be remitted to her Mother in Panama.

Describe the relevant statutory obligations if any, that CBB could undertake.

(Total: 25 marks)

QUESTION 5

Pemaju Sdn. Bhd. (PSB) operated a current account with Green Bank Bhd.'s (GBB) branch at Jalan Ayer Keroh, Melaka. On the night of 5 December 2015, PSB's office was broken into and burgled. The burglary was discovered by the staff the next morning and Barbie the accounts clerk who noticed that her drawer was damaged and three blank cheques bearing numbers 600138, 600139 and 600140 (the said cheques) were missing. She made a police report and also called the bank and reported the theft of the said cheques. The manager Ken, was away at the material time and on his return on 10 December 2015, issued written instructions to GBB not to pay out on the said cheques. However, all three cheques for a total sum of RM 600,000/- had been cleared on the 8 December 2015. Consequently, PSB sues GBB for wrongfully paying out on the said cheques and demands repayment of the sum of RM 600,000/-.

Advise GBB on its liability if any.

(Total: 25 marks)

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